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SOUTHERN DISTRICT OF CALIFORNIA

BY  DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CANDY STEWART,

Plaintiff,

vs.

ORANGE COUNTY SOCIAL
SERVICES; JULIA SEA, Social Worker,

Defendants.

CASE NO. 12cv677 WQH WMC

ORDER

HAYES, Judge:

The matter before the Court is the Motion to Proceed in Forma Pauperis ("IFP") filed by Plaintiff Candy Stewart. (ECF No. 5).

On March 20, 2012, Plaintiff Candy Stewart, proceeding pro se, initiated this action by filing a Complaint in this Court. (ECF No. 1). On March 23, 2012, Plaintiff filed a Request to Waive Additional Court Fees. (ECF No. 3).

On April 12, 2012, this Court issued an order denying without prejudice Plaintiff's Request to Waive Additional Court Fees. On April 16, 2012, Plaintiff filed the Motion to Proceed IFP. (ECF No. 5).

All parties instituting a civil action, suit, or proceeding in a district court of the United States, other than a petition for writ of habeas corpus, must pay a filing fee of \$350.00. 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay only if the party is granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). "To proceed in forma pauperis is a privilege not

1 a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965).

2 Plaintiff states that she is not employed, but she receives \$80 per month in veteran’s
3 payments. Plaintiff states that she does not have a checking account, savings account, or any
4 other asset of significant value such as a vehicle, real estate, stocks, or bonds. Plaintiff states
5 that she supports her daughter by sending her hygiene supplies. Plaintiff states that she lives
6 in low income housing. The Court has reviewed Plaintiff’s statement of assets and finds it is
7 sufficient to show that Plaintiff is unable to pay the fees required to maintain this action. *See*
8 28 U.S.C. § 1915(a).

9 Notwithstanding Plaintiff’s indigence, a complaint filed by any person proceeding in
10 forma pauperis pursuant to 28 U.S.C. § 1915(a) is also subject to mandatory review and sua
11 sponte dismissal to the extent it “is frivolous or malicious; fails to state a claim on which relief
12 may be granted; or seeks monetary relief from a defendant who is immune from such relief.”
13 28 U.S.C. § 1915(e)(2)(B)(i)-(iii); *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) (per
14 curiam); *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc). Upon review of the
15 allegations in Plaintiff’s Complaint, the Court finds they are sufficient to satisfy the
16 requirements of section 1915(e)(2)(B).

17 Plaintiff’s Motion for Leave to Proceed In Forma Pauperis is GRANTED. (ECF No.
18 5). The Clerk of the Court is directed to issue a summons and provide Plaintiff with the
19 summons, certified copies of both this Order and the Complaint, and a blank U.S. Marshal
20 Form 285. Plaintiff shall complete the U.S. Marshal Form 285, and forward the Form 285
21 along with the designated copies of this Order and the Complaint to the U.S. Marshal. The
22 U.S. Marshal shall serve a copy of the Complaint and summons upon the Defendants as
23 directed by Plaintiff on each U.S. Marshal Form 285.

24 IT IS SO ORDERED.

25 Dated: 5/23/12

26 
27 WILLIAM Q. HAYES
28 UNITED STATES DISTRICT JUDGE